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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/044,667   | 01/11/2002  | Brian C. Barnes      | 2000.057000/TT4090  | 9420             |
| 23720 7590 01/06/2009<br>WILLIAMS, MORGAN & AMERSON<br>10333 RICHMOND, SUITE 1100<br>HOUSTON, TX 77042 |             |                      |                     |                  |
| EXAMINER<br>NGUYEN, VAN H  |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 2194   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/044,667

**Applicant(s)**

BARNES ET AL.

**Examiner**

VAN H. NGUYEN

**Art Unit**

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. This communication is responsive to the amendment filed 10/20/2008.

Claims 1-26 are currently pending in this application.

### Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/20/2008 has been entered.

### Claim Objections

3. Claims 1, 4-6, 12, 17, 20-22, and 24-26 are objected to because of the following minor informalities:
  - **Claim 1:** “*said virtual address based memory*” (lines 6-7) should read “*said virtual address based memory access*”; and “*said virtual address*

*memory access*" (line 9) should read "*said virtual address based memory access*".

- **Claim 4:** "*said virtual address memory access*" (lines 6 and 9) should read "*said virtual address based memory access*". It is noted that dependent claim 4 appears to repeat some limitations which are recited in independent claim 1.
- **Claim 5:** "*at least one of said segment*" (line 4) should read "*at least one of said segments*".
- **Claim 6:** "*said virtual address memory access*" (line 2) should read "*said virtual address based memory access*"; and "*an execution of said object*" (lines 7-8) should read "*said execution of said software object*".
- **Claim 12:** "*said virtual address based memory*" (line 7) should read "*said virtual address based memory access*"; and "*said virtual address memory access*" (lines 10-11) should read "*said virtual address based memory access*".
- **Claim 17:** "*said virtual address based memory*" (lines 8-9) should read "*said virtual address based memory access*"; and "*said virtual address memory access*" (line 11) should read "*said virtual address based memory access*".
- **Claim 20:** "*a virtual address memory access*" (line 7) should read "*said virtual address based memory access*"; and "*said virtual address memory access*" (line 10) should read "*said virtual address based memory*".

*access*". It is noted that dependent claim 20 appears to repeat some limitations which are recited in independent claim 17.

- **Claim 21:** *"at least one of said segment"* (line 5) should read *"at least one of said segments"*.
- **Claim 22:** *"a virtual address memory access"* (line 3) should read *"said virtual address based memory access"*; and *"an execution of said object"* (lines 8-9) should read *"said execution of said software object"*.
- **Claim 24:** *"at least one of said segment"* (lines 5-6) should read *"at least one of said segments"*; *"said virtual based address memory access"* (line 11) should read *"said virtual address based memory access"*; and *"said object"* (line 14) should read *"said software object"*.
- **Claim 25:** *"said object"* (line 2) should read *"said software object"*.
- **Claim 26:** *"said object"* (line 3) should read *"said software object"*.

Appropriate correction is required.

### Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 USC § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 3-7, 10, 19-24 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**As to claim 3:**

*“a memory”* (line 3) renders the claim indefinite. It is not clear if it is referring to *“a memory”* of claim 1.

**As to claim 4:**

- *“a memory access request”* (line 5) renders the claim indefinite. It is not clear if it is referring to *“a memory access request”* of claim 1.
- *“a portion of a memory”* (line 9) renders the claim indefinite. It is not clear if it is referring to *“a portion of a memory”* of claim 1.

**As to claim 5:**

*“a physical memory”* (line 3) renders the claim indefinite. It is not clear if it is referring to *“a memory”* of claim 1.

**As to claim 6:**

*“a virtual memory address”* (line 12) renders the claim indefinite. It is not clear if it is referring to *“a virtual memory address”* recited at line 9.

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**As to claim 10:**

*“a memory”* (line 3) renders the claim indefinite. It is not clear if it is referring to *“said memory”* of claim 8.

**As to claim 19:**

*“a memory”* (line 3) renders the claim indefinite. It is not clear if it is referring to *“a memory”* of claim 17.

**As to claim 20:**

- *“a memory access request”* (line 6) renders the claim indefinite. It is not clear if it is referring to *“a memory access request”* of claim 17.
- *“a portion of a memory”* (line 10) renders the claim indefinite. It is not clear if it is referring to *“a portion of a memory”* of claim 17.

**As to claim 21:**

*“a physical memory”* (line 4) renders the claim indefinite. It is not clear if it is referring to *“a memory”* of claim 17.

**As to claim 22:**

*“a virtual memory address”* (line 13) renders the claim indefinite. It is not clear if it is referring to *“a virtual memory address”* recited at line 10.

**As to claim 24:**

*“said function”* (line 14) lacks antecedent basis. Claim 12 has no “a function” term that defines or supports the given reference.

The dependent claims are rejected for fully incorporating the deficiencies of their base claims.

### **Double Patenting**

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 C.F.R.' 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R.' 1.78(d).



Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 1-26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of Application No. 10/047, 188.**

Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application and the application<sup>1</sup> 188 are claiming common subject matter. The claimed differences would be obvious to a programmer of ordinary skill.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### **Indication of Allowable Subject Matter**

6. Claims 1-26 appear to be allowable over the prior art of record, subject to the objections, 112 rejections, the nonstatutory double patenting rejection as set forth, and subject to a final search.

### **Response to Arguments**

7. Applicant's arguments filed 10/20/2008 have been considered but are moot in view of the new ground(s) of rejection.

### **Contact Information**

8. Any inquiry or a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM- 6:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MENG-AI AN can be reached at (571) 272-3756.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/  
Primary Examiner, Art Unit 2194